

BAKER BOTTS LLP

PETITION FOR EXTENSION OF TIME UNDER 37 CFR 1.136(a)		Docket Number (Optional) A34018-PCT-USA062635
	In re Application of Van Saarloos et al.	
	Application Number 09/762,824	Filed Feb. 14, 2001
	For SURGICAL VISUAL FEEDBACK AND * see attached	
	Group Art Unit To be Assigned	Examiner To be Assigned

This is a request under the provisions of 37 CFR 1.136(a) to extend the period for filing a reply in the above identified application.

The requested extension and appropriate non-small-entity fee are as follows
(check time period desired):

<input type="checkbox"/> One month (37 CFR 1.17(a)(1))	\$ _____
<input type="checkbox"/> Two months (37 CFR 1.17(a)(2))	\$ _____
<input type="checkbox"/> Three months (37 CFR 1.17(a)(3))	\$ _____
<input checked="" type="checkbox"/> Four months (37 CFR 1.17(a)(4))	\$ 1,440
<input type="checkbox"/> Five months (37 CFR 1.17(a)(5))	\$ _____

Applicant claims small entity status. See 37 CFR 1.27. Therefore, the fee amount shown above is reduced by one-half, and the resulting fee is: \$ 720.

A check in the amount of the fee is enclosed.

Payment by credit card. Form PTO-2038 is attached.

The Commissioner has already been authorized to charge fees in this application to a Deposit Account.

The Commissioner is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account Number 02-4377.

I have enclosed a duplicate copy of this sheet.

I am the applicant/inventor

assignee of record of the entire interest. See 37 CFR 3.71.
Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96).

attorney or agent of record.

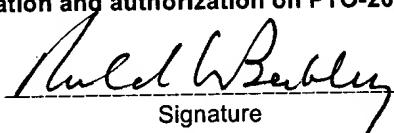
attorney or agent under 37 CFR 1.34(a).
Registration number if acting under 37 CFR 1.34(a) _____.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

November 12, 2002

Date

PTO Reg No.: 25,465


Signature

Richard G. Berkley

Typed or printed name

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.

Total of _____ forms are submitted.



BAKER BOTTS LLP

Attorney Docket Number: A34018-PCT-USA062635.0133

Title: SURGICAL VISUAL FEEDBACK AND EYE FIXATION METHOD AND APPARATUS

Use Space Below for Additional Information:



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Van Saarloos et al.
Serial No. : 09/762,824 Examiner To be Assigned
Filed : February 14, 2001 Group Art Unit: To be Assigned
For : SURGICAL VISUAL FEEDBACK AND EYE FIXATION METHOD
AND APPARATUS

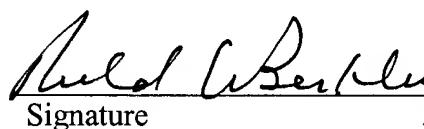
RENEWED PETITION UNDER 37 C.F.R. 1.137(b)

I hereby certify that this paper is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Assistant Commissioner for Patents, BOX PCT, Washington, D.C. 20231

November 12, 2002
Date of Deposit

Richard G. Berkley
Attorney Name

25,465
PTO Registration No


Signature

November 12, 2002
Date of Signature

Attention: **Legal Affairs Division**
PCT Legal Office

Assistant Commissioner for Patents
BOX PCT
Washington, D.C. 20231

Sir:

This Renewed Petition under 37 C.F.R. 1.137(b) is submitted in response to the Decision on Petition Under 37 C.F.R. 1.137(b) and 37 C.F.R. 1.47(b) dated May 13, 2002.

PATENT

Concurrently herewith, the applicant has submitted a petition and the appropriate small entity fee under 37 C.F.R. § 1.17(a)(4) for a four-month extension of the period for response to the Decision on Petition from July 13, 2002 to and including November 13, 2002.

In the Decision on Petition, the applicant's Petition Under 37 C.F.R. 1.137(b) for Revival of Unintentionally Abandoned Application, filed December 26, 2001, was denied, without prejudice, on the ground that the accompanying Petition Under 37 C.F.R. 1.47(b) was not grantable because the "37 C.F.R. 1.47(b) applicant has not provided evidence that the inventions underlying the present application fall within the scope of . . . [the] . . . employment agreements" between the Lions Eye Institute of Western Australia ("LEI"), assignor to the 37 C.F.R. 1.47(b) applicant Q-Vis Limited, and the non-signing co-inventor Dr. Paul Phillip Van Saarloos. Decision, p. 3. To satisfy the requirements for a grantable petition under 37 C.F.R. 1.47(b), the Office required the submission of further evidence supporting applicant's claim of proprietary interest with respect to Dr. Van Saarloos. Specifically, the Office stated: "Such evidence should include statements from any persons with firsthand knowledge that the invention underlying the present application was made by the inventor during the period of his employment and within the course of the inventor's duties, and a legal memorandum to the effect that a court of competent jurisdiction would by the weight of authority in the appropriate jurisdiction award title in the invention to the 37 C.F.R. 1.47(b) applicant." Decision, p. 3.

Submitted herewith is a Statement of Facts in Support of Filing on Behalf of Nonsigning Inventors (37 C.F.R. § 1.47(b)) by Ian Jeffrey Constable, Director of LEI, appending copies of the employment agreements between LEI and Dr. Van Saarloos during the relevant time period and setting forth facts, based on Professor Constable's firsthand personal knowledge thereof, that Dr. Van Saarloos' contribution to the invention underlying the present application

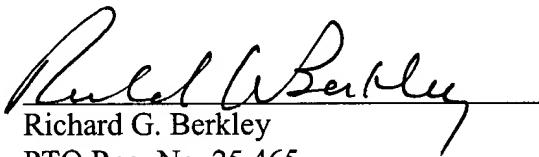
was made by Dr. Van Saarloos during the period of his employment with LEI and within the course of his duties with LEI. See, ¶ 7-13.

Also submitted herewith is a legal memorandum entitled "Memorandum to the US Patent Office", dated November 11, 2002, by the Australia law firm of Freehills Carter Smith Beadle, to the effect that an Australian court of competent jurisdiction would by the weight of authority in Australia award title in the invention to the 37 C.F.R. 1.47(b) applicant Q-Vis Limited. Mr. Jonathan Forbes and Ms. Lisa Taliadoros, who signed the Memorandum on behalf of Freehills Carter Smith Beadle, are members of the bar of the State of Victoria, Australia.

In view of the foregoing submissions, applicant respectfully requests that the application be revived pursuant to 37 C.F.R. 1.137(b).

Although no fee is believed to be due with this submission, the Commissioner is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account Number 02-4377. A duplicate copy of this sheet is enclosed.

Respectfully submitted,


Richard G. Berkley
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Attorney for Applicant

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